

### **REMARKS**

Applicants have carefully considered the Office Action of June 16, 2005. Applicants note that a Preliminary Amendment was filed on June 16, 2005 as well; none of the rejections in the Office Action are affected by that Amendment. Claims 6-9, 18, 19, 43, and 49 have been amended. Claims 1-19 and 23-50 are pending.

Claims 6-9 were rejected under 35 U.S.C. 112, ¶ 2, as indefinite for failing to state the relationship of the layers to the amounts of the charge transport material. Applicants traverse the rejection.

The claims, as originally written, are definite. Claims 6-9, which depend from claim 1, incorporate all of its limitations. Therefore, the relationship is clear between the amount of charge transport compound and the layers. The only difference found between claim 1 and claims 6-9 was use of the article "of" instead of "in" as recited in claim 1. Applicants, in order to clarify the meaning of claims 6-9, have amended the articles to be consistent with claim 1. These amendments were not made for reasons of patentability; Applicants take the position that the terms "of" and "in" are equivalent and the scope of these claims has not changed. As support for this position, Applicants note that claims 2, 3, 16, 18, 19, and 43-50, which recite a charge transport compound "of" a charge transport layer, were not rejected under § 112, ¶ 2. Applicants request withdrawal of the § 112, ¶2 rejection.

Claims 1-52 were rejected under 35 U.S.C. 103(a) as unpatentable over Pai '614 (5,830,614) in view of Pai '077 (6,127,077). Applicants traverse the rejections.

The references, together, do not teach all claim limitations. MPEP § 2143.03. In particular, independent claims 1 and 43 both recite a charge transport compound dispersed in a polymer binder. In contrast, Pai '614, the primary reference, teaches a polymer which comprises a charge transporting segment. Pai '614 does not teach adding a charge transport compound to his polymer.

Indeed, Pai '614 teaches away from adding a charge transport compound to his polymer and from making two charge transport layers with different concentrations in them. MPEP §§ 2143.01; 2145(X)(D). In col. 2, lines 4-5, Pai '614 teaches that small activating molecules function as charge transporting moieties. He then teaches in col. 4, ll. 23-26, that the small molecule charge carrier will

homogenize between the layers; this is the problem he is trying to solve by using charge transport polymers instead of a polymer and a charge transport compound. Pai '077 also teaches away; from col. 11, line 47-col. 12, line 22, Pai states that if the concentration of charge transport material in each layer is unequal, they will diffuse between the layers, i.e. homogenize. To solve this problem, Pai '077 selects the binder of one layer to have a lower solubility limit for the charge transport material of that charge transport layer than the solubility limit of the binder for the charge transport material of the other transport layer; i.e. he uses different binders in each layer. See Examples II and VII. With regard to the different concentrations, in col. 12, lines 25-31, Pai '077 teaches that the first transport layer, which is closer to the charge generating layer, has a lower concentration of charge transport material than the second transport layer. This is exactly the opposite of independent claims 1 and 43, which have been amended to clarify that the first transport layer is closer to the charge generating layer than the second transport layer; these amendments have basis on page 4 of the original specification. Therefore, the references in combination do not render the instant claims obvious. Applicants request withdrawal of the 103(a) rejections based on Pai '614 and Pai '077.

Claims 1-52 were provisionally rejected over claims 10-18 and 20 of copending application 10/734,380 under the judicially created doctrine of obviousness-type double patenting. Applicants traverse the rejection.

A Terminal Disclaimer has been submitted and a copy is attached. Applicants request withdrawal of the provisional rejection.

Claims 18, 19, and 49 were amended solely to correct typographical errors in the names of several chemical compounds listed in these claims. These amendments were not made for reasons of patentability, but for clarity, and do not affect the scope of these claims.

**CONCLUSION**

For the above reasons, it is submitted that all pending claims (1-19 and 23-50) are in condition for allowance. Withdrawal of the rejections and issuance of a Notice of Allowance are requested.

It is believed that no fee is due in conjunction with this response. If, however, it is determined that fees are due, authorization is hereby given for deduction of those fees, other than the issue fees, from Deposit Account No. 24-0037.

Respectfully submitted,

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